

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, APRIL 1, 2003
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:11 a.m. Mayor Murphy introduced and welcomed Mr. Nobuhito Zuzuki of Tokyo, Japan. Mr. Zuzuki is the Chief Engineer of the Tokyo Urban Development Corporation. He is here as a guest of the Downtown San Diego Partnership and will be touring redevelopment sites in the downtown area. Mayor Murphy recessed the meeting at 11:23 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 11:32 a.m. with all Council Members present. The meeting was recessed at 12:03 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:09 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:00 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:15 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:05 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss existing and pending litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour (gs/ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Chuck Abdelnour, City Clerk for the City of San Diego.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Lewis.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Clive Richard commented on "term limits" and the decision is one that should not be made for us but at the ballot box.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:38 a.m.)

PUBLIC COMMENT-2:

Noel Neudeck expressed his concerns surrounding the incorrect facts in the newspaper regarding disability access features for taxis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:41 a.m.)

PUBLIC COMMENT-3: **REFERRED TO THE CITY MANAGER**

Linda Smith stated that the bus stop on Presidents Way was very difficult for anyone using a wheelchair. Ms. Smith asked that this bus stop be examined for modification.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

PUBLIC COMMENT-4:

Jarvis Ross noted comments made by Council on architectural buildings in the downtown area.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-5:

David Thompson asked people to boycott the San Diego Union newspaper for its political views surrounding the war.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:49 a.m.)

PUBLIC COMMENT-6:

Rebekah Eaves expressed her concerns for the people following “Falun Gong” in China and the mistreatment of those followers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:53 a.m.)

PUBLIC COMMENT-7:

Ron Boshun commented on the length of time it took the City Council to recognize our Armed Forces and questioned the media’s actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

PUBLIC COMMENT-8:

Billy Paul thanked the Council for supporting our troops and announced the Clairemont Town Council Blood Drive.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:59 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Atkins announced that the North Park Community Service Center in District 3 is working in conjunction with the Marine Corps. Community Services and Planet 103.7 to hold a donation drive to help our troops. The list requesting items includes toiletries, snacks, stationery, etc. This drive will conclude on April 6, 2003.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:02 a.m.)

COUNCIL COMMENT-2:

Council Member Lewis commended the volunteers for all their hard work on the Cesar Chavez Parade. Council Member Lewis expressed his concern in placing advertisements for gun shows near parks, schools, and churches.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

COUNCIL COMMENT-3: REFERRED TO THE CITY MANAGER

Council Member Peters requested that the City Manager specifically evaluate the timing of the light at the intersection of Torrey Pines and La Jolla Parkway. The light as mentioned before has been frequently mistimed. Council Member Peters asked to have someone out on location on the weekends or place a sign with a phone number stating where to call if there are problems with the light.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:06 a.m.)

COUNCIL COMMENT-4:

Council Member Frye thanked the Clairemont Town Council and Billy Paul for sponsoring the "Support our Troops" Blood Drive on Saturday, April 5, 2003 at the Clairemont Village Shopping Center.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:08 a.m.)

CITY ATTORNEY COMMENT:

None.

CITY MANAGER COMMENT:

None.

- * ITEM-50: Amending San Diego Municipal Code Section 22.0228 relating to the Preparation of Annual Budget; Library Appropriation.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/17/2003 (Council voted 9-0):

(O-2003-127 Rev.) ADOPTED AS ORDINANCE O-19163 (New Series)

Amending Chapter 2, Article 2, Division 2 of the San Diego Municipal Code by amending Section 22.0228 relating to the Preparation of Annual Budget; Library Appropriation.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Bay Terraces #6 School Site - Joint Use Agreement.

(Skyline/Paradise Hills Community Area. District-4.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 3/17/2003. (Council voted 9-0):

(O-2003-113) ADOPTED AS ORDINANCE O-19164 (New Series)

Authorizing the City Manager to execute an Agreement for the Construction, Operation, Maintenance, and Lease of Turfed Fields and Recreational Facilities at Bay Terraces #6 (Joint Use Agreement) with the San Diego Unified School District of San Diego County, California, for the construction, operation, maintenance, and lease of turfied fields and recreational facilities at Bay Terraces #6, and for the lease of Bay Terraces Community Park.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-52: Kumeyaay Elementary School Joint Use Agreement.

(Tierrasanta Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2003-126) INTRODUCED, TO BE ADOPTED ON MONDAY,
APRIL 21, 2003

Introduction of an Ordinance authorizing the City Manager to execute an agreement for the construction, operation, maintenance, and lease of turf fields and recreational facilities at Kumeyaay Elementary School [Joint Use Agreement] with the San Diego Unified School District of San Diego County, California, for the construction, operation, maintenance, and lease of playing fields and a parking lot at Kumeyaay Elementary School.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

The proposed facilities at Kumeyaay Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of an irrigated and turfed multi-use playing field and running track.

Kumeyaay Elementary School is located at 6475 Antigua Boulevard in the Tierrasanta Community. The Community has initiated the development of the existing 3.0 acre decomposed granite multi-purpose fields. The Kumeyaay Elementary School Foundation's fund raising efforts has resulted in a \$46,345 donation of consultant services for preparation of design and construction documents for the project. Additionally, the Principal of Kumeyaay has committed \$50,000 in discretionary Prop. MM School Bond funds for site improvements in support of the joint use project.

The General Development Plan has been approved through the Park and Recreation Department approval process. This project will help to satisfy the community's and school district's recreational and athletic program needs. Population-based park standards will have been met for the Tierrasanta community with the construction of the joint use facility at Kumeyaay Elementary School.

FISCAL IMPACT:

Funds in the amount \$522,200 for CIP-29-655.0, Kumeyaay Elementary School Joint Use Improvements have been previously approved by Council action with the Fiscal Year 2003 Capital Improvements Program Budget Appropriation Ordinance, O-19083, adopted on July 1, 2002. Annual maintenance at the Kumeyaay Elementary site is estimated to be \$24,000 for which funding will be requested for FY2004 as a new facility.

Herring/Oppenheim/DS

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Lewis.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-100: Street Dedication and Drainage Easements, Access Easements and General Utility and Access Easement Set Asides in Portions of Pueblo Lot 1304.

(University Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-916) ADOPTED AS RESOLUTION R-297792

Setting aside and dedicating as and for a public street a City-owned land in Pueblo Lot 1304 consisting of drainage easements, access easements and a general utility and access easement, and naming the same "Judicial Drive".

CITY MANAGER SUPPORTING INFORMATION:

This site is located southwesterly of La Jolla Village Drive and I-805 in the University Community Plan area. Council is requested to approve the dedication and naming of a public street as "Judicial Drive" and the set aside of new drainage easements, access easements and a general utility and access easement in Pueblo Lot 1304 in City owned land as shown on Engineering Drawing No. 00058-C.

This project has been designed to correspond with the approved Tentative Map and improvement plans for Nobel Research Park T. M. No. 99-0034.

Staff recommends approval.

FISCAL IMPACT:

None.

Ewell/Broughton/GRB

FILE LOCATION: DEED F-9512

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: Park and Recreation Grant Match Funding.

(City Heights, Skyline/Paradise Hills Community Areas. Districts-3 and 4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1133) ADOPTED AS RESOLUTION R-297793

Authorizing the transfer from CIP-29-592.0, Keiller Neighborhood Park Playground, in the amount of \$10,992 from Fund No. 630221, to CIP-20-013.0, Park and Recreation Grant Match Fund No. 630221;

Authorizing the transfer from CIP-29-684.0, Park de la Cruz/38th Street Development, in the amount of \$41,000 from Fund No. 630221 to CIP-20-013.0, Park and Recreation Grant Match Fund No. 630221.

CITY MANAGER SUPPORTING INFORMATION:

This action authorizes the transfer of funding from two Capital Improvement Program accounts to the Park & Recreation Department Grant Match Funding CIP as follows:

In May 2002, the Park and Recreation Department Development Office submitted a competitive grant application to the Federal Urban Parks and Recreation Recovery Program for the Keiller Neighborhood Park Tot Lot Upgrade Project. The grant was not awarded. This action transfers \$10,992 representing the City's required match for the unsuccessful grant request back to the Park and Recreation Department Grant Match Fund.

In June 2002, the Park and Recreation Department Development Office submitted a competitive grant application to the Federal Land and Water Conservation Fund Program for the 38th Street Canyon Park Development Project. The grant was awarded, and the City is required to provide \$272,960 matching funds for the \$272,960 grant. Previous Council action (R-296595) authorized \$50,960 City matching funds from the Park and Recreation Department Grant Match Fund.

At this time, the 38th Street Canyon Park Development Project has sufficient City funding to match the grant and to transfer \$41,000 back to the Park and Recreation Department Grant Match Fund.

FISCAL IMPACT:

None with this action.

Herring/Oppenheim/CW

Aud. Cert. 2300990.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: California Housing and Community Development Grant Application 2003 and Other Lead Hazard Related Grants.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1122) ADOPTED AS RESOLUTION R-297794

Authorizing the City Manager or his duly designated representative to apply for and accept grant funds, in an amount not to exceed \$300,000, for Fiscal Years 2003-2007, through the California Department of Housing and Community Development (HCD) Code Enforcement Grant Program in response to the Notice of Funding Availability (NOFA) issued February 14, 2003, and for the purpose of purchasing eligible capital assets identified in the application to be used in the City of San Diego as approved by HCD and in accordance with the NOFA and grant application package.

Authorizing the City Manager or his duly designated representative to identify, apply for, and accept other grants available for the City's Lead Safe Neighborhoods Program for Fiscal Years 2003 through 2007;

Designating the Director of Neighborhood Code Compliance or the Deputy Director of Environmental Services, as appropriate, as the person authorized to execute all documents and agreements related to the above-described grants on behalf of the City;

Authorizing, contingent upon the Council's approval of the Fiscal Years 2004 through 2007 budgets, and upon the award of grant funding for the corresponding fiscal years, staffing paid by grant funding to implement and administer approved grant activities and agreements.

CITY MANAGER SUPPORTING INFORMATION:

California Department of Housing and Community Development (HCD) is accepting applications for the Code Enforcement Grant Program (CEGP) by April 4, 2003. This new program provides grant funds to cities and counties for capital expenditures that improve the effectiveness of and supplement existing local funding for code enforcement programs related to housing code maintenance or compliance. The grant period is for three-years and amount per agency for that three year period cannot exceed \$300,000.

Neighborhood Code Compliance Department and Environmental Services Department have identified several capital assets, including equipment for lead analysis and lead removal, that qualify for this grant that will assist the City in providing effective code enforcement in substandard housing. This council action will allow the City to apply for, accept, and administer these grant funds.

Lead paint hazards are identified under California state law as substandard housing. This resolution will also allow the City to apply, accept, and administer additional grant funds for the elimination of lead hazards in housing.

FISCAL IMPACT:

There is no fiscal impact identified in the current fiscal year. The HCD, Code Enforcement Grant is for a three-year period for the purchase of capital assets only.

Loveland/Hays/CG

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: Mid-City Neighborhood Prosecution Initiatives.

(See City Attorney's report dated 1/30/2003. City Heights East, City Heights West, College, Darnall, El Cerrito, Gateway, Kensington, Normal Heights, Oak Park, Rolando, Talmadge, and Webster Community Areas. Districts-3, 4, and 7.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-951) ADOPTED AS RESOLUTION R-297795

Authorizing the City Attorney to collect an administrative fee from persons determined by the City Attorney to be eligible to participate in the Mid-City Community Court and who elect to participate in the program. The fee is to be set by the City Attorney, not to exceed limits imposed by state and local laws, to cover the cost of processing an application to the Mid-City Community Court and the cost of supervising a participant;

Authorizing the City Attorney to collect an administrative fee from persons determined by the City Attorney to be eligible to participate in the Prostitution Impact Panel and who elect to participate in the program. The fee is to be set by the City Attorney, not to exceed limits imposed by state and local laws, to cover the cost of administering the Prostitution Impact Panel;

Declaring that the City Attorney shall collect the fees at the time an individual enrolls in the Mid-City Community Court or Prostitution Impact Panel programs. Any individual unable to pay may participate by performing community work service;

Declaring that the City Attorney shall examine the fees annually to ensure that they continue to reflect the costs of the programs;

Authorizing and directing the City Auditor and Comptroller to establish the Mid-City Neighborhood Prosecution Initiatives Fund, for the purpose of funding the operation of the Mid-City Community Court and Prostitution Impact Panel programs. Any monies deposited into the Mid-City Neighborhood Prosecution Initiatives Fund, including administrative fees collected from participating offenders and any further grants or funding for the purposes of the Mid-City Community Court and Prostitution Impact Panel, are appropriated and authorized to be expended from time to time for the purpose of such Fund;

Authorizing the City Attorney to apply for, accept, and expend a \$30,000 grant from the San Diego Women's Foundation Fund at The San Diego Foundation, to fund a coordinator for the Mid-City Community Court, under the terms and conditions set forth in the letter dated June 4, 2002 to the City Attorney from Linda Katz, President of The San Diego Women's Foundation;

Declaring that the \$30,000 grant award shall be placed in the Mid-City Neighborhood Prosecution Initiatives Fund to cover the cost of the coordinator for one year from adoption of this Resolution;

Agreeing to indemnify, defend, and hold harmless The San Diego Women's Foundation Fund at The San Diego Foundation from any liability arising out of The Foundation's funding of the grant project.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 2/5/2003, PS&NS voted 5 to 0 to accept the City Attorney's report and approve the resolution. (Councilmembers Zucchet, Atkins, Lewis, Maienschein, and Frye voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-104: Two actions related to Authorizing the Transfer of Funds for Chollas Valley Trunk Sewer Phase II.

(See memorandum from Frank Belock, Jr. dated 12/4/2002. Mid-City Community Area. Districts-4 and 7.)

(Continued from the meeting of 3/3/2003, Item 151, at the request of Councilmember Lewis, for further review.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2003-996) ADOPTED AS RESOLUTION R-297796

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$1,000,000 from Fund 41506, CIP-46-197.0, Sorrento Valley Trunk Sewer; an amount not to exceed \$131,508 from Fund 41506, CIP-46-111.0, Rose Canyon Trunk Sewer; an amount not to exceed \$71,500.15 from Fund 41506, CIP-46-199.0, West Linda Vista Trunk Sewer, and an amount not to exceed \$76,232 from Fund 41506, CIP-46-202.0, Barnett Avenue Trunk Sewer, to Fund 41506, CIP-40-910.2, Chollas Valley Trunk Sewer Phase II.

Subitem-B: (R-2003-997) ADOPTED AS RESOLUTION R-297797

Stating for the record that the information contained in final Mitigated Negative Declaration, LDR-40-0797, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes

or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Project;

Directing the City Clerk to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 12/11/2002, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, and Inzunza voted yea. Councilmember Madaffer not present.)

CITY MANAGER SUPPORTING INFORMATION:

Chollas Valley Trunk Sewer was constructed in 1940. It serves a drainage basin of about 1,900 gross acres in the Mid-City Community, plus the University Avenue drainage basin for the City of La Mesa. This existing 18- and 15-inch trunk sewer begins at the intersection of University Avenue and 60th Street and continues in a southwesterly direction, parallel to University Avenue, across private parcels, to Federal Boulevard. This trunk sewer is currently operating above its design capacity, not able to meet future demands and has limited access or no access to manholes for regular maintenance.

The advertisement and expenditure of \$10,955,120 for this project was approved by Council on April 22, 2002 (R-296369). Bids were opened on August 8, 2002. The lowest responsible bidder was Cass Construction, Inc. Their bid was below the engineer's estimate. The transfer of funds is needed because not enough funds were included for this project in the FY 2003 Capital Improvement Program budget.

FISCAL IMPACT:

The cost of this transaction is \$1,279,240.15, and funds are available in Sewer Fund 41506.

Loveland/Belock/HR

Aud. Cert. 2300843.

WWF-03-636.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:32 a.m - 10:35 a.m.)

MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: University Avenue Streetscape - Additional Funding.

(City Heights and North Park Community Areas. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1121) ADOPTED AS RESOLUTION R-297798

Declaring that the City Council finds and determines that construction of public improvements on University Avenue, between I-805 and Wilson Avenue, for which the Redevelopment Agency proposes to contribute funding, are of benefit to the City Heights Redevelopment Project; will assist in the elimination of one or more blighting conditions within the City Heights Redevelopment Project Area; that no other reasonable means of financing the public improvements are available to the community; and that it is consistent with the Five Year Implementation Plan for the City Heights Redevelopment Project, as adopted and amended by the Agency pursuant to California Health and Safety Code Section 33490;

Authorizing the City Manager to accept funding in the amount of \$60,000 from Fund 98200 into CIP-52-462.0, University Avenue/Lincoln Avenue Two Way Couplet System, Fund 10259, City Heights Redevelopment Agency;

Authorizing a \$60,000 increase in Fiscal Year 2003 Capital Improvements Program budget in CIP-52-462.0, University Avenue/Lincoln Avenue Two Way Couplet;

Authorizing the City Auditor and Comptroller to appropriate and expend \$60,000 from CIP-52-462.0, University Avenue/Lincoln Avenue Two Way Couplet System, Fund 10259, for the additional staff cost;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

This project provided for streetscape and other improvements on University Avenue between Herman and Wilson Avenues. For the purposes of coordination, work items from two projects were combined into one construction contract. The two projects were CIP-39-210.0 University Avenue Streetscape enhancements and the remaining phase of CIP-52-462.0 University/Lincoln Couplet. Pursuant to Resolution 294170, a construction contract was executed with Heffler Company, Inc. for construction of these improvements. The construction is now substantially complete.

During construction, additional work items were added to the project and some unforeseen conditions necessitated additional work by the contractor. The added items included curb ramp changes, the addition of colored sidewalk, sidewalk treatments, additional trees, irrigation sleeves, and other related work. The addition of these items depleted the project's contingency funding so that when subsequent unforeseen conditions (typically covered by the contingency budget of the project) were encountered, it then necessitated identification of additional funds. Since the additional work items were related to the redevelopment goals in the area, funds were identified by the Redevelopment Agency staff to cover the costs of this work and allow this project to be completed and closed out.

FISCAL IMPACT:

Upon acceptance of the Redevelopment Agency funds, funding for this action will be available from CIP-52-462.0. With this action, the total construction engineering cost will be \$494,455.36, with a revised total project cost of \$5,391,787.18.

Loveland/Belock/PB

Aud. Cert. 2300919.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Reappointments to the Park and Recreation Board.

(See memorandum from Mayor Murphy dated 3/21/2003 with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1146) ADOPTED AS RESOLUTION R-297799

Council confirmation of the following reappointments by the Mayor to serve as members of the Park and Recreation Board, for terms ending March 1, 2005:

Darlene Gould Davies
Robert L. Robinson
Oliva Puentes-Reynolds

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Settlement of Personal Injury Claim of Jack William Parkes.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1135) ADOPTED AS RESOLUTION R-297800

A Resolution approved by the City Council in Closed Session on Tuesday, March 18, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the sum of \$105,000 in the settlement of each and every claim against the City, its agents and employees, resulting from the personal injury to Jack William Parkes (Superior Court Case No. GIC-792808, Jack William Parkes v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the sum of \$105,000 made payable to Jack William Parkes and his attorney, Geraci Kessler LLP, in full settlement of the lawsuit and all claims.

Declaring that said funds are to be payable from Fund No. 81140.

Aud. Cert. 2300957.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: US vs. Hate Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1085) ADOPTED AS RESOLUTION R-297801

Commending the San Diego Regional Hate Crimes Coalition and joining in its effort to raise awareness and combat hate in our community;

Proclaiming April 2, 2003 to be "US vs. Hate Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Bill Lynch Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1137) ADOPTED AS RESOLUTION R-297802

Recognizing Bill Lynch for his contributions to improve and enrich the lives of children in our community;

Proclaiming March 25, 2003 to be "Bill Lynch Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: San Diego State University Foundation Anniversary.

(College Community Area. District-7.)

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1140) ADOPTED AS RESOLUTION R-297803

Recognizing the San Diego State University Foundation on its 60th Anniversary for its dedication and commitment to the citizens of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: City of San Diego Volunteer Month.

(See City Manager Report CMR-03-051.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1120) ADOPTED AS RESOLUTION R-297804

Honoring the City of San Diego volunteers, and recognizing their accomplishments;

Declaring the month of April 2003 to be "City of San Diego Volunteer Month" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-112: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-946) ADOPTED AS RESOLUTION R-297805

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L -State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-113: Declaring a Continued State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-803) ADOPTED AS RESOLUTION R-297806

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L - State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-114: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1031) ADOPTED AS RESOLUTION R-297807

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER'S SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L - Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

* ITEM-115: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1039) ADOPTED AS RESOLUTION R-297808

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Two actions related to Seal Rock marine Mammal Reserve.

(See City Manager Report CMR-03-054. La Jolla Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2003-115) FILED WITH DIRECTION

Introduction of an Ordinance amending Chapter 6, Article 3, Division 10 of the San Diego Municipal Code by amending Section 63.1001 relating to Seal Rock Marine Mammal Reserve.

Subitem-B: (R-2003-1013) FILED WITH DIRECTION

Accepting the California Coastal Commission's Coastal Development Permit with Special Conditions (Permit) for reinstatement of Seal Rock Marine Mammal Reserve;

Directing the City Manager to take actions to fulfill the conditions of the Permit;

Directing the City Manager to return to Council within five (5) years of the date of this resolution to review and give an update concerning the Reserve and to provide a recommendation as to whether to continue the Reserve.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:32 a.m. - 12:02 p.m.; 2:09 p.m. - 4:58 p.m.)

MOTION BY PETERS TO FILE THE ITEM, WITH DIRECTION THAT THE CITY COUNCIL NOT ACCEPT THE COASTAL COMMISSION CHANGES TO THE SEAL ROCK RESERVE, INSTEAD THAT EDUCATIONAL SIGNAGE BE ACCEPTED IN THE AREA AND TO CONTINUE THE DOCENT PROGRAM. DIRECT THE CITY MANAGER TO MAKE A PRESENTATION TO THE STATE OF CALIFORNIA'S MARINE LIFE PROTECTION ACT WORKING GROUP ABOUT THE MARINE RESOURCES IN THE AREA AND LET THE WORKING GROUP ADVISE THE CITY COUNCIL ON THE APPROPRIATE STATUS FOR THE AREA IN THEIR COMPREHENSIVE REVIEW OF CALIFORNIA MARINE RESOURCES.

REQUEST THE CITY MANAGER TO RETURN TO THE NATURAL RESOURCES AND CULTURE COMMITTEE WITH A REPORT ON HOW, IN COMPLIANCE WITH FEDERAL LAW, TO REDUCE POLLUTION LEVELS AND TO RETURN THE CHILDREN'S POOL TO RECREATIONAL USE FOR CHILDREN, INCLUDING ACCESSIBLE USES, THUS RESTORING THIS AREA TO THE JOINT USE OF SEALS, DIVERS, FISHERMEN, CHILDREN AND THEIR FAMILIES.

Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: Notice of Pending Final Map Approval - Fairbanks Summit 1.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Fairbanks Summit 1, T.M. 99-1364" a copy of which is available for public viewing at the office of the San Diego City Clerk. Said project is located in the Black Mountain Ranch Community Plan Area northeasterly of I-5 and Carmel Valley Road in Council District 1. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: Settlement of the Personal Injury Claim of Stan Lynn.

(R-2003-1607 Cor. Copy)

Adopted as Resolution R-297725.

A Resolution approved by the City Council in Closed Session on Tuesday, February 4, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$135,000 in the settlement of each and every claim against the City, its agents and employees, resulting from the personal injury claim of Stan Lynn (U.S. District Court Case No. 00cv2385-W(NLS) Stan Lynn v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$135,000 made payable to Gattey, Cooney and Barani Client Trust Fund, his attorneys, in full settlement of the lawsuit and all claims.

Declaring that said funds are to be payable from Fund No. 41500,
Department No. 760, Org. No. 503, Account No. 4823 and Job Order No.
050301.

Aud. Cert. 2300929.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-S500: Commending the Members of the United States Armed Forces Serving Their Country.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1168) ADOPTED AS RESOLUTION R-297809

Commending the bravery of, and express gratitude for, the members of the
United States Armed Forces serving their country.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:14 a.m. - 10:28 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the
following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea,
Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S501: Temporary Rule of the Council to Permit the Appointment of Councilmember
Brian Maienschein as Sole Member of and Chairperson of the Select Committee
on Government Efficiency and Fiscal Reform.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1149) ADOPTED AS RESOLUTION R-297810

Establishing a Temporary Rule of the Council, pursuant to San Diego Municipal Code Section 22.0101, Rule 31, entitled "Temporary Rules," to permit the appointment of Councilmember Brian Maienschein as sole member of and Chairperson of the Select Committee on Government Efficiency and Fiscal Reform;

Declaring that this Temporary Rule supersedes the Permanent Rules of the Council established by Section 22.0101 of the San Diego Municipal Code and shall be effective until December 2, 2003, unless made permanent by enactment of an ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:29 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S502: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

REFERRED TO CLOSED SESSION ON TUESDAY, APRIL 1, 2003.

Property: Qualcomm Stadium

City Negotiators: Assistant City Attorney Leslie J. Girard, Deputy
City Manager Bruce Herring, Paul Jacobs, Esq.,
Daniel S. Barrett, and Robert J. Kheel, Esq.

Negotiating Parties: City of San Diego and the San Diego Chargers

Under Negotiation: Real Property Interests at the Qualcomm Stadium
site pursuant to the recommendations of the Citizens
Task Force on Chargers Issues, and

pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket **only** for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on April 1, 2003. **The closed session will not occur until after this open session item is heard.**

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:21 a.m. - 11:23 a.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:01 p.m. in honor of the memory of:

Corporal Randal Kent Rosacker as requested by Council Member Madaffer; and

Arjay Anne Ainslie as requested by Mayor Murphy.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 5:01 p.m. - 5:05 p.m.)